

APPEAL NO. 032138  
FILED SEPTEMBER 23, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on July 22, 2003. The hearing officer determined that the respondent/cross-appellant's (claimant) compensable injury of \_\_\_\_\_ does extend to and include an injury to the left wrist, but does not extend to and include an injury to the cervical spine. The appellant/cross-respondent (carrier) appeals the determination that the compensable injury extends to and includes an injury to the left wrist, on sufficiency of the evidence grounds. The claimant appeals Finding of Fact Nos. 5, 6, and 7 as being contrary to the evidence, and replies to the carrier's appeal. The carrier did not reply to the claimant's appeal.

DECISION

Affirmed, as corrected.

Before discussing the merits of the appeals, there are several matters that need to be corrected. First, Conclusion of Law No. 4 appears to be incorrectly stated, and is inconsistent with the Statement of the Evidence and with Finding of Fact No. 6. We correct Conclusion of Law No. 4 to read:

The Claimant's injury sustained on \_\_\_\_\_ **does not** extend to and include an injury to the cervical spine.

We also correct the Decision paragraph to read:

The Claimant's injury sustained on \_\_\_\_\_ does extend to and include an injury to the left wrist. The Claimant's injury sustained on \_\_\_\_\_ **does not** extend to and include an injury to the cervical spine.

Lastly, we correct the Exhibit lists for both the claimant and the carrier. The hearing officer listed the incorrect exhibits in the decision and order, but the correct exhibits were in the file, and it is apparent to us that the hearing officer had the correct exhibits before her when she analyzed the evidence and wrote her decision and order. We correct the exhibit lists to read as follows:

For Claimant:

1. TWCC-21, 1 page.
2. Medical reports from Dr. C, 11 pages.
3. Medical reports from Dr. U, 11 pages.
4. Diagnostic studies, MRI/EMG study, 8 pages
5. Operative report 8/1/02, 2 pages

6. Medical reports from former treating doctor, Dr. W, 18 pages.
7. Designated doctor, Dr. F, 13 pages.

For Carrier:

1. Medical Report, Dr. S, P.A., 4/23/02, 2 pages.
2. Medical Report, JM, M.D., 4/25/02, 3 pages.
3. Medical Report, Electrodiagnostic Test, JK, M.D., 6/28/02, 2 pages.
4. Medical Report, JH, M.D., 10/15/02, 7 pages.
5. Medical Report, BT, D/C., 12/6/02, 3 pages.
6. Medical Report, Designated doctor, DF, D.O., 2/18/03, 12 pages.
7. Patient Information Sheet, 5/9/02, 1 page.
8. (Company), LLC, Basic Report of Injury, 5/2/02, 1 page.
9. TWCC-21, 7/9/02. 1 page.
10. Claimant's Interrogatory Answers, 12 pages.
11. TWCC Lifetime Record Check, 6/5/03, 1 page.

Extent of injury is a factual question for the fact finder to resolve. There were conflicts in the evidence that was presented on this issue, and the hearing officer was persuaded that the compensable injury extended to the left wrist, but was not persuaded that the compensable injury extended to the cervical spine. The evidence supports the hearing officer's factual determinations. The hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence as well as the weight and credibility that is to be given to the evidence. Section 410.165(a). It is for the hearing officer to resolve the inconsistencies and conflicts in the evidence. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). This is equally true regarding medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). The Appeals Panel will not disturb the challenged factual findings of a hearing officer unless they are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust, and we do not find them to be so in this case. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951).

We affirm the decision and order of the hearing officer, as corrected.

The true corporate name of the insurance carrier is **INSURANCE COMPANY OF THE STATE OF PENNSYLVANIA** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY  
800 BRAZOS, SUITE 750, COMMODORE 1  
AUSTIN, TEXAS 78701.**

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Michael B. McShane  
Appeals Panel  
Manager/Judge

CONCUR:

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Chris Cowan  
Appeals Judge

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Thomas A. Knapp  
Appeals Judge